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A fitting property rights memorial

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One of the "great first principles of the social compact" is that a legislature can not "take property from A and give it to B." So said the Supreme Court just after our nation was founded.

"It is against all reason and justice," the court said in 1798, "for a people to entrust a legislature with such powers; and, therefore, it cannot be presumed that they have done so."

Well, so much for that 200-year old presumption.

Just a few days ago, by a 5-4 vote in a case called *Kelo v. City of New London*, the Supreme Court rejected the Founders' wisdom and said it was perfectly fine for the city of New London, Conn., to take Wilhelmina Dery's house -- a house her family had lived in more than 100 years -- and 14 neighboring houses (including one owned by Suzette Kelo), and give them to Pfizer Inc., so it could knock them down and build a global research center.

Why would the city do that? Apparently, Pfizer will pay more in taxes than Mrs. Dery and her neighbors. And according to the Supreme Court, that's enough. No longer is your home your own. No longer do we believe, as William Pitt, Earl of Chatham, said in a 1763 speech to the House of Lords that: "The poorest man may in his cottage bid defiance to all the force of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storms may enter, the rain may enter. But the King of England cannot enter; all his forces dare not cross the threshold of the ruined tenement."

Instead, our new city-kings can take any property they choose -- particularly if they take from the poor and give to the higher-tax-paying rich. How's that for turning Robin Hood upside down? Is it any wonder minority groups such as the NAACP were on the side of Mrs. Dery and are now up in arms?

As Justice Sandra Day O'Connor correctly wrote in her dissent: "The specter of condemnation hangs over all property." No property is safe from expropriation by the government.

Congress has moved quickly to respond. Already, members of both houses have introduced legislation to restore the property rights the court eliminated. Prospects are uncertain, and the bills are unlikely, in any event, to undo all the damage.

But there is one important step we can take right now -- one our elected representatives can adopt that will say, louder than any other, how bad this decision was.

In the current appropriations cycle, Congress should authorize purchase of land to construct five monuments. The monuments will stand as memorials to the importance of property rights. They should be dignified and respectful, with readings from history about property's foundational importance to liberty. They should be open to the public as educational trusts combining equal parts history and political theory.

Even before the Supreme Court's new theory of property rights, these monuments clearly would've been appropriate -- they will be owned by the government and open to traditional

"public use," like our other national monuments.

Of course, these new monuments will need sites for their construction. They should not only be appropriate in terms of location, but should carry with them, if possible, a certain symbolism of their own -- so the monuments, by their very existence, convey the importance of property rights in American history.

Those criteria are difficult to meet. Fortunately, however, five perfectly suitable sites exist. We only hope the five justices who formed the majority in Kelo will understand if the federal government takes their houses for public use as a memorial. We should be grateful to Justices John Paul Stevens, Anthony Kennedy, David Souter, Ruth Bader Ginsburg and Stephen Breyer for their contributions to America's legal development -- and even more grateful for the contribution of their homes as federal memorials to the death of property rights.

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